

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

EDWARD R. COSS, JR., : CIVIL ACTION NO. 1:01-CV-00878
Petitioner, :
v. : (Judge Caldwell)
: (Magistrate Judge Blewitt)
JAMES P. MORGAN, et al., :
Respondents :
: MARY E. D'ANDREA, CLERK
Per _____
: DEPUTY CLERK

FILED
SCRANTON

JAN 12 2005

NOTICE OF FILING
OF
APPENDIX TO RESPONDENTS' REPLY BRIEF

NOTICE IS HEREBY GIVEN that Respondents, through their undersigned counsel, have this date filed the annexed appendix to their Reply Brief.

Respectfully submitted, January 11, 2005.

s/ William P. O'Malley
William P. O'Malley, Atty. I.D. # 58520
Assistant District Attorney
Lackawanna County Courthouse
200 N. Washington Avenue
Scranton, PA 18503
(717) 963-6717

CERTIFICATE OF SERVICE

I hereby certify that on January 12, 2005, I am serving a copy of the foregoing: *Notice of Filing of Appendix to Respondent's Reply Brief*, as well as the *Appendix* itself which, with index, is attached hereto, upon Petitioner,

Mr. Edward R. Coss #CB5970
SCI Dallas
1000 Follies Road
Dallas, PA 18612

by prepaid first class U.S. Mail,

s/ William P. O'Malley
William P. O'Malley
Assistant District Attorney

Index to Appendix

<u>Informal Appendix Page Number</u>	<u>Date of Filing</u>	<u>Description of Document</u>
1-3		The State Court Docket, consisting of three pages.
4-6	7-12-94	<i>Application for Order Mandating Clerk of Courts, And/or Court Stenographer, to Furnish Court Records and Transcribed Notes of Testimony</i> was filed by James Coss, petitioner's brother.
7	7-19-94	<i>Order</i> entered by Judge Cottone granted the foregoing application with the proviso that James Coss would be obliged to pay the cost for the requested documents.
8-10	3-2-95	<i>Motion For Transcripts of All Proceedings</i> was filed, <i>pro se</i> , by petitioner.
11-12	8-11-03	<i>Order</i> , entered by Judge Cottone which, among other things, appointed new counsel for Mr. Coss and gave notice that "... a hearing on the defendant's petition for post conviction relief will be held on Friday, September 26, 2003 at 10:00 a.m."
13-15	3-17-04	<i>Order</i> , entered by Judge Cottone, upon express "consideration of the <i>annexed Motion of the Commonwealth to Dismiss PCRA Proceedings</i> , as filed before me" issued a rule to show cause directing Mr. Coss to show cause why the annexed motion of the Commonwealth should not be granted; rule returnable before April 1, 2004, hearing scheduled on April 14, 2004.

16	4-14-04	A letter from Petitioner was filed requesting that the hearing set for April 14, 2004 be rescheduled.
17	4-14-04	<i>Order</i> entered rescheduling the hearing from April 14, 2004 to May 20, 2004.
18-19	5-21-04	<i>Order</i> entered, <u>dismissing</u> Mr. Coss' PCRA petition.
20	6-14-04	<i>Notice of Appeal</i> to Superior Court filed, pro se, by Coss.
21-24	6-28-04	Superior Court Docket Pages filed.
25-28	8-30-04	<i>Superior Court Order</i> filed, directing that the appeal proceed as a counselled appeal.
29	12-2-04	<i>Notice of Discontinuance of Appeal</i> from Superior Court filed.

CASE ACTION SUMMARY - CRIMINAL							
1. CASE NO.	2. OIN	11. SEX					
86-cr-645	Juvenile to Adult	RACE					
3. LAST NAME	4. FIRST NAME	5. MI	13. DATE OF BIRTH				
Coss	Edward						
6. ADDRESS							
7. CITY	8. STATE	9. ZIP	14. JP 13.00, State 7.00, CVC25.00				
10. CHARGES AND CLASSIFICATION			FEL	MSD	APP	15. HEARING MAGISTRATE	
A. Disorderly conduct							
B. Resisting arrest						16. BAIL TYPE	
C. Aggravated assault						\$ 20,000.00	
D. Theft						17. AMT. BAIL	
E. Criminal mischief						18. DATE COMP. FILED	
F. Simple assault						22. DATE 180 DAY EXP.	
G. Criminal trespass						19. ARRAIGNMENT DATE	
						7-18-86	
						20. DATE IND/INFO FILED	
						7-17-86	
						21. DATE TRAN. REC.	
						7-7-86	
24. ATTORNEY NAME(S)						25. CO-DEFENDANT(S)	
						31. Date Now This 31 Day of July 1986 Received Cash Bail in the Sum of \$ 500.00 From WILLIAM P. RINALDI	
						1. Name of Attorney	
						2. Name of Attorney	
						3. Name of Attorney	
26. INITIAL PLEA		27. FINAL PLEA	28. TYPE OF TRIAL	29. BEGINNING DATE	30. ENDING DATE	31. NO. TRIAL DAYS	
32. VERDICT/DISPOSITION							
A.		D.		E.		F.	
B.							
C.							
33. NAME OF JUDGE			34. POST TRIAL MOTIONS	35. DATE OF SENTENCE	36. DATE SENT. IMPOSED	37. FINE	38. COST
DATE ACTIONS, JUDGMENT AND CASE NOTES							
7-7-86	1	Filed Order and Order of Court, Penetar, Judge.					
7-9-86	2	Filed Amended Order. By the Court, Penetar, Judge.					
7/21/86	3	Filed Petition for reduction of Bail					
7-22-86	4	Filed REQUEST FOR BILL OF PARTICULARS					
7-22-86	5	Filed REQUEST FOR PRETRIAL DISCOVERY & INSPECTION.					
7-25-86	6	Filed Answer to Petition for Reduction of Bail.					
7-29-86	7	Filed Commonwealths Answer to Request for Pretrial Discovery and Inspection.					
8-29-86	8	Filed Commonwealths Response to request for Bill Of Particulars.					
7-29-86	9	Filed Order. By the Court, Munley, J					
7/31/86	10	Defendant and Robert Helrip each tent in \$1000.00					
8-1-86	11	Filed OMNIBUS PRE TRIAL MOTION. RULE					

CRIMINAL

Page

2

DATE	ACTIONS, JUDGEMENTS, CASE NOTES
8-6-86 12	Filed ANSWER TO ONMIBUS PRE TRIAL MOTION
10-31-86 13	Now Oct. 30, 1986 issue joined, jurors called and sworn in according to the Law, say on same day defende demurrs to charge of Agg. Assault and Terroristic threats, demurrer is sustained. Say on Oct. 31, 1986 they find defendant to charges of Institutional Vandalism, Criminal Mischief and Simple Assault Guilty. To charges of Resisting Arrest and Disorderly Conduct they find defendant Not Guilty. Sentence deferred pending pre sentence investigation.
	By the Court, Cottone, J
12-12-86 14	Filed PETITION TO REVOKE BAIL. RULE
12-31-86 15	Filed Order. (Revocation of Bail). Munley, J.
1/30/87 16	Defendant Sentenced to pay costs of prosecution and to serve a min of six Months to a max of one year on charge of Inst. Vandalism and on simple assault a min of 6 months to a max of 1 year consecutive at a State Corr. Facility. Cottone, J.
1/30-87 17	Filed MOTION TO DISMISS UNDER RULE 1100 ORDER. By the Court
1/2-87 18	Filed PROCEEDINGS AT SENTENCE (Cottone, D. Walsh)
1/3/87 19	Filed Motion for reconsideration of sentence.
1/27/87 20	Filed Commonwealth's Answer to Motion to Dismiss Under Rule 1100.
2/2-87 21	Filed Order. By the Court, (Reschedule hearing on Motion).
3/13-87 22	Filed Order. By the Court, Cottone, (Petition denied).
3/12-87 23	Filed Motion for Modification of Sentence Nunc Pro Tunc.
4/3-87 24	FILED PETITION FOR CREDIT FOR IMPRISONMENT
4-6-87 25	Filed Order Dismissing petition for credit.
6-10-87 26	Filed Application for Order "mandating Clerk of Courts to furnish court records.
6-12-87 27	Filed PETITION UNDER POST CONVICTION HEARING ACT
6-23-87 28	Filed ORDER--pro se application is DENIED By the Court, Cottone, J.
5-29-87 29	Filed Commonwealth's Answer to Petition Under Post Conviction Hearing Act.
12-12-87 30	Filed Application for order mandating Clerk of Courts and stenographer

IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY
CRIMINAL DIVISION

28

Commonwealth of Pennsylvania

VS.

C/P NO. 86 CR 645

Edward Coss

Application For Order Mandating Clerk Of Courts, And/Or
Court Stenographer, To Furnish Court Records And Transcribed
Notes Of Testimony.

To The Honorable Judges, of the above said Court.

This application by James A. Coss, Petitioner respectfully submitts the following facts and affidavit for "Order" furnishing him with the requested Court Records.

1. That Petitioner has on a numerous occassions requested these records from the Court stenographer office dating back to December, 1988 only to be refused the same.
2. Petitioner is the brother of the defendant (caption above).
3. Petitioner knows that a fee is required to receive the same and petitioner is more than willing to pay the fee required.
4. The requested records are both necessary and pertinent in this petitioner's pursuit of proving his brother's innocence and assisting in the filing of his brother's appeal.
5. Ample authority is asserted pursuant to Griffin v. Illinois, 351 U.S. 12,76 S.CT 585, 100 L.Ed. 2d 891 (1956) : Mayer v. City, of Chicago 404 U.S 189,92 S.CT. 410, 30 L. Ed. 2d 371.(1971); Gardner v. California 393, U.S. 367, 89 S. CT. 580, 21 L.Ed. 2d 601(1969).
6. Petitioner will pay cost of Record/Transcript.

WHEREFORE, your petitioner prays this HONORABLE COURT, will issue under the hand and seal of this court an "ORDER" upon the clerk of courts and/or court stenographer, to furnish this petitioner with certified copy of these respective court records/ transcript of trial.

Respectfully submitted,



James Coss

AFFIDAVIT

Commonwealth of Pennsylvania :

County of Lackawanna :

Before me, the undersigned authority, Personally appeared James Coss, who, being dully sworn according to law, deposes and says that he is the petitioner in the fore going application for court records, and that the facts set forth therein are true and correct to the best of his knowledge, information, and belief.

*Sworn and acknowledged before me this
141st day of March 1994
James Coss*

signed

James Coss

PLATE 1001
TERMINATE V. TERMINATE, INC., 1994-1001
Court of Common Pleas of Pennsylvania
My Commission Expires Jan 3, 1999

COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
: OF LACKAWANNA COUNTY

vs.

CRIMINAL DIVISION

EDWARD COSS,

Defendant : NO. 86 CR. 645

O R D E R

NOW, this 19th day of July, 1994, upon application of James Coss on behalf of the defendant, Edward Coss, it is hereby

ORDERED that the Clerk of Judicial Records and/or the Court Reporter furnish copies of any and all Court records and transcripts to the said James Coss upon receipt of the proper costs and fees for the same.

BY THE COURT

Attorney , J.

WILLIAM P. RINALDI
CLERK OF
JUDICIAL RECORDS

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JOAN P. RINALDI
CLERK OF RECORDS
COMMONWEALTH OF PA.

COURT OF COMMON PLEASES
LUCKAWANNA COUNTY

30

vs.
EDWARD COSS
DEFENDANT

No. 86 CR 645

MOTION FOR TRANSCRIPTS
OF ALL PROCEEDINGS

DEFENDANT, PRO SE, HEREBY MOVES FOR
TRANSCRIPTS OF ALL PROCEEDINGS AS
IT RELATED TO THIS CASE.

1. DEFENDANT WAS CONVICTED BEFORE A JURY
ON 10-31-86 FOR THE CRIME OF SIMPLE
ASSAULT AND VANDALISM. IN ORDER
FOR DEFENDANT TO PROPERLY PREPARE HIS
CASE, FOR APPEAL, DEFENDANT REQUESTS
THAT ALL TRANSCRIPTIONS BE TRANSCRIBED
INCLUDING PRE-TRIAL HEARINGS, TRIAL AND
SENTENCING HEARING.
2. THE HONORABLE JOHN COTTOLE PRESIDED
OVER THE TRIAL, SENTENCING AND OMNIBUS
MOTION.
3. PETITIONER STATES UNDER OATH THAT HE
IS INDIGENT, WITHOUT PROPERTY OR

PAGE 2

INCOME EXCEPTING NOMINAL WAGES
EARNED FOR PRISON LABOR; THAT HE IS
WITHOUT THE MEANS TO PAY FOR THE
ABOVE SAID RECORDS; THAT THESE
RECORDS ARE BOTH NECESSARY AND
PERTINENT TO PERFECTING AN ADEQUATE
Post Conviction Hearing Act PETITION
SEEKING RELIEF FROM THE JUDGEMENT
IN THE INSTANT CASE.

PETITIONER (DEFENDANT) HAS BEEN GRANTED
INFORMA PAUPRIS AND WAS REPRESENTED
BY THE PUBLIC DEFENDERS OFFICE AT ALL
STAGES OF THIS CASE.

4. PETITIONER HAS REQUESTED THESE
RECORDS FOR NEARLY EIGHT (8) YEARS
AND IT IS IMPERATIVE THAT HE HAS
THEM IN PURSUING AN APPEAL IN
FEDERAL COURT.

WHEREFORE, FOR ANY OF THE FOREGOING
REASONS IT IS REQUESTED THAT THE
COURT ORDER THE RELEASE THE NOTED
RECORDS AND BE GIVEN TO PETITIONER.

RESPECTFULLY SUBMITTED,
Edward Coss
EDWARD COSS

AFFIDAVIT

Comm. of Pa.
LACKAWANNA County

86 CR 645

EDWARD COSS, WHO, BEING DULY SWORN
ACCORDING TO LAW, DEPOSES AND SAYS
THAT HE IS THE PETITIONER IN THE
FOREGOING APPLICATION FOR COURT RECORDS,
AND THAT THE FACTS SET FORTH THEREIN
ARE TRUE AND CORRECT TO THE BEST
OF HIS KNOWLEDGE, INFORMATION, AND
BELIEF.

SIGNED: Edward Coss
EDWARD COSS

DATE: FEBRUARY 23, 1995

PROOF OF SERVICE

THE PETITIONER HAS PROVIDED SERVICE OF THIS
MOTION TO THE CLERK OF COURTS, DISTRICT
ATTORNEY, AND JUDGE JAMES M. MUNLEY OF
LACKAWANNA COUNTY, BY HAND DELIVERY,
ON 23RD DAY OF FEBRUARY, 1995.

BY: Edward Coss
EDWARD COSS

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COMMONWEALTH OF PENNSYLVANIA, : IN THE COURT OF COMMON PLEAS
: OF LACKAWANNA COUNTY
:
v. : CRIMINAL DIVISION
: NO. 86-C~~X~~-645
EDWARD R. COSS, JR. :
Defendant :
:-----:
:-----:

ORDER

Now, this 11th day of August, 2003 a motion for Post Conviction Relief having been filed pro se by the defendant in June, 1987 and an answer filed by the Commonwealth on June 29, 1987. and it appearing that the matter has never been set for hearing it is hereby ORDERED as follows:

1. That the defendant may proceed in forma pauperis without payment of any costs.
2. That Terrence Gallagher, Esquire, previously appointed as counsel for the defendant is removed as counsel.
3. That Christopher P. Cullen, Esquire, 1306 Woodlawn Street, Dunmore, PA 18509 is appointed to represent the defendant.
4. That the Clerk of Judicial Records is directed to do the following forthwith:
 - (a) to serve copies of the defendant's pro se motion and this Order upon the District Attorney of Lackawanna County.
 - (b) to send copies of the defendant's pro se motion and this Order to Rose Ann McGowan, Esquire, the defendant's trial counsel at P.O. Box 280, Moscow, PA 18444; and to Terrence Gallagher, Esquire, defendant's previous post conviction counsel, at 416 Jefferson Avenue, Scranton, PA 18510; and to

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MAPLE FOREST
LAW OFFICES

11

Christopher P. Cullen, Esquire, defendant's Court appointed counsel at 1306
Woodlawn Street, Dunmore, PA 18509.

(c) to send a copy of this Order to the defendant, Edward P. Coss, Jr. at 118
South Church Street, Carbondale, PA 18407-2666.

5. That a hearing on the defendant's petition for post conviction relief will be held
on Friday, September 26, 2003 at 10:00 a.m.

BY THE COURT,



S.J.

COMMONWEALTH OF PENNSYLVANIA, : IN THE COURT OF COMMON PLEAS
 : OF LACKAWANNA COUNTY

v.

CRIMINAL DIVISION *32*

EDWARD R. COSS, JR.
 Defendant

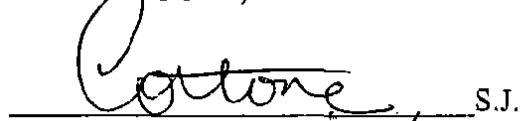
NO. 86-CR-645

ORDER

Now, this 17th day of March, 2004, upon consideration of the *annexed Motion of the Commonwealth to Dismiss PCRA Proceedings*, as filed before me:

1. A rule is granted upon the Defendant EDWARD COSS, to show cause why the annexed motion should not be granted. The rule is returnable before April 1, 2004.
2. A hearing is scheduled before the undersigned Judge on Wednesday, April 14, 2004 at 9:30 a.m.
3. Christopher J. Osborne, Esquire, 142 Adams Avenue, Scranton, PA 18503 is hereby court appointed to represent the defendant.

BY THE COURT,


 S.J.

Attorney for the Commonwealth: William P. O'Malley, Esquire
 Assistant District Attorney
 Lackawanna County District Attorney's Office
 200 North Washington Avenue
 Scranton, PA 18503

Attorney for the Defendant: Christopher J. Osborne, Esquire
 142 Adams Avenue
 Scranton, PA 18503

Defendant: Mr. Edward Coss
 118 South Church Street
 Carbondale, PA 18407

MARY E. RINALDI
 LACKAWANNA COUNTY

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COMMONWEALTH OF PENNSYLVANIA : IN THE COURT OF COMMON PLEAS
v. : of
EDWARD COSS, : LACKAWANNA COUNTY
Defendant : 86 CR 645

.....

Motion of the Commonwealth to Dismiss PCRA Proceedings

The Commonwealth respectfully moves the Court to dismiss the PCRA proceedings pending in this cause upon the following reasons and grounds:

1. The *Motion for Postconviction Collateral Relief* filed by Edward Coss should be dismissed because, as a condition of eligibility for post-conviction relief the provisions set forth in 42 Pa.C.S.A. § 9543(a)(1) of the Post Conviction Relief Act expressly require:

§ 9543. Eligibility for relief

(a) General rule.—To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:

- (1) That the petitioner has been convicted of a crime under the laws of this Commonwealth and is at the time relief is granted:
 - (I) currently serving a sentence of imprisonment, probation or parole for the crime;
 - (ii) awaiting execution of a sentence of death for the crime; or
 - (iii) serving a sentence which must expire before the person may commence serving the disputed sentence.

2. Although at the time the PCRA petition was filed, Edward Coss was in custody, and was then currently serving a sentence of imprisonment, probation or parole for the crime, thereby satisfying the eligibility requirements of 42 Pa.C.S.A. § 9543(a)(1)(i) he no longer is in custody, his sentence having been fully served is now expired; moreover, Edward Coss does not now satisfy, nor has he ever satisfied any of the eligibility requirements set forth in 42 Pa.C.S.A. § 9543(a)(1)(ii) or 42 Pa.C.S.A. § 9543(a)(1)(iii).

3. Consequent upon the foregoing, the Commonwealth respectfully asserts that the Court lacks statutory authority to grant postconviction relief to the petitioner and that in the absence of statutory authority the Court is not otherwise empowered to grant postconviction relief.

4. The Commonwealth, based upon personal inquiry, believes that the defendant receives his mail, and therefore can be given notice of these proceedings, at the following address:

Edward Coss
118 South Church Street
Carbondale, PA 18407

WHEREFORE, the Commonwealth requests the Court to enter an Order affording to Edward Coss the opportunity to show cause, if any he has, why the relief sought hereby should not be granted.

Thereafter, the Court is requested to enter such further Orders as would seem to the Court appropriate to an informed and orderly disposition of these PCRA proceedings.

Respectfully submitted, March 15, 2004



William P. O'Malley
Assistant District Attorney
Atty. I.D. # 58520
Lackawanna County
200 N. Washington Avenue
Scranton, PA 18503
(570) 963-6717

4-14-04

TO: THE HONORABLE S.J. Cottone

From: Edward R. Cass.

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RE CR-86-645

MARY E. RINALDI
LAW OFFICES OF
MARY E. RINALDI

ON MARCH 17, 2004 YOUR HONOR ISSUED AN ORDER AND A RULE TO SHOW CAUSE RETURNABLE BEFORE APRIL 1, 2004. ALSO YOUR HONOR APPOINTED ATTY. CHRISTOPHER OSBORNE IN THIS MATTER.

Today, April 14, 2004 the date a hearing is scheduled I would like to bring to your attention that at no time have I been contacted or discussed 86 CR 645 with atty. osborne nor did I receive any communications regarding this matter including the rule which was returnable on April 1, 2004.

I respectfully request a continuance in this matter until after I get an opportunity to speak to an attorney who has signed Ed Cass

**Christopher J. Osborne, Esquire
ATTORNEY I.D. #80064
POWELL LAW
142 Adams Avenue
Scranton, PA 18503
(570) 961-0777
ATTORNEY FOR DEFENDANT**

COMMONWEALTH OF : IN THE COURT OF COMMON PLEAS
PENNSYLVANIA : OF LACKAWANNA COUNTY

VS. : CRIMINAL DIVISION

EDWARD R. COSS, JR., :
Defendant : NO. 86-CV-645

ORDER

AND NOW, this 14 day of April, 2004, it is hereby ORDERED
AND DECREED that the PCRA hearing scheduled for April 14, 2004 relative to the above-
referenced matter is hereby rescheduled to Thursday, May 20, 2004 at 2:30 p.m.

IT IS SO ORDERED:

By the Director

10 May 1987

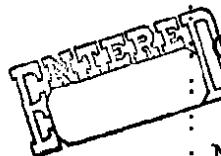
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COMMONWEALTH OF PENNSYLVANIA,

: IN THE COURT OF COMMON PLEAS
: OF LACKAWANNA COUNTY

v.

EDWARD R. COSS, JR.,
Defendant



CRIMINAL DIVISION

: NO. 86-CR-645

ORDER

The Defendant having filed a Post Conviction Relief Petition when he was currently serving prison sentences for the subject crimes, and having since completed the full sentences for said crimes, he is no longer eligible for any post conviction relief.

To be eligible for relief the provisions set forth in 42 Pa. C.S.A. §9543 (a)(1) of the Post Conviction Relief Act expressly require:

§ 9543.

Eligibility for relief

(a) General rule. - To be eligible for relief under this subchapter, the petitioner must plead and prove by a preponderance of the evidence all of the following:

(1) That the petitioner has been convicted of a crime under the laws of the Commonwealth and is at the time relief is granted:

- (i) currently serving a sentence of imprisonment, probation or parole for the crime;
- (ii) awaiting execution of a sentence of death for the crime; or
- (iii) serving a sentence which must expire before the person may commence serving the disputed sentence.

Although at the time the Defendant's post conviction petition was filed, the Defendant was in custody and was then serving sentences of imprisonment that satisfied the eligibility requirements, he is no longer in custody nor on probation or parole for the

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MARY F. RINALDI
LACKAWANNA COUNTY
CLERK

crimes, his sentences having been fully served they have expired. Therefore, the defendant does not now satisfy any of the eligibility requirements set forth in 42 Pa. C.S.A. (a)(1).

Now, this 21st day of May, 2004, the Defendant's Post Conviction Relief petition is hereby dismissed.

By the Court,

Cottone, S.J.

William P. O'Malley, Esquire
Assistant District Attorney
200 North Washington Avenue
Scranton, PA 18503

Christopher J. Osborne, Esquire
142 Adams Avenue
Scranton, PA 18503

Mr. Edward Coss
118 South Church Street
Carbondale, PA 18407

*IN THE COURT OF COMMON PLEAS OF LACKAWANNA COUNTY, PA
45TH JUDICIAL DISTRICT
CRIMINAL DIVISION*

COMMONWEALTH OF PENNSYLVANIA :
:
:
VS. :
:
:
EDWARD R. COSS, JR. : *CASE NO.: 86 CR 645*

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NOTICE OF APPEAL

Notice is hereby given that the Petitioner, Edward R. Coss, Jr., hereby appeals to the Pennsylvania Superior Court from the Order entered on May 21, 2004, which dismissed his Petition for Post Conviction Relief, pursuant to the Post Conviction Relief Act 42 Pa.C.S.A. Sections 9541-9546 *et seq.*. Order is attached heretofore and also referenced by the attached copy of the docket entry.

BY: Edward R. Coss, Jr.
Edward R. Coss, Jr.
C/O Lackawanna County Prison
1371 N. Washington Avenue
Scranton, Pennsylvania 18509

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Appeal Docket Sheet

Docket Number: 955 MDA 2004

Page 1 of 3

June 22, 2004



Commonwealth of Pennsylvania

v.

Edward R. Coss, Jr., Appellant

Initiating Document: Notice of Appeal IFP

Case Status: Active

Case Processing Status: June 22, 2004

Awaiting Original Record

Journal Number:

Case Category: Criminal

Case Type:

Aggravated Assault
 Criminal Mischief
 Criminal Trespass
 Disorderly Conduct
 Resisting Arrest
 Simple Assault
 Theft

Consolidated Docket Nos.:

Related Docket Nos.:

SCHEDULED EVENT

Next Event Type: Docketing Statement Received

Next Event Due Date: July 6, 2004

Next Event Type: Original Record Received

Next Event Due Date: August 2, 2004

RECORD FILED IN SUPERIOR COURT

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Appeal Docket Sheet

Docket Number: 955 MDA 2004

Page 2 of 3

June 22, 2004



COUNSEL INFORMATION

Appellant Coss Jr., Edward R.

Pro Se: ProSe

Appoint Counsel Status:

IFP Status: Yes

Appellant Attorney Information:

Attorney: Coss Jr., Edward R.

Bar No.:

Law Firm:

Address: C/O Lackawanna County Prison
1371 N. Washington Avenue
Scranton, PA 18509

Phone No.:

Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

Appellee Commonwealth of Pennsylvania

Pro Se:

Appoint Counsel Status:

IFP Status: No

Appellee Attorney Information:

Attorney: Jarbola III, Andrew John

Bar No.:

Law Firm:

Address: Lackawanna Co DA's Office
200 N Washington Ave
Scranton, PA 18503

Phone No.: (570)963-6717

Fax No.:

Receive Mail: Yes

E-Mail Address:

Receive E-Mail: No

FEE INFORMATION

Fee Date	Fee Name	Fee Amt	Paid Amount	Receipt Number

TRIAL COURT/AGENCY INFORMATION

Court Below: Lackawanna County Court of Common Pleas

County: Lackawanna

Division: Criminal

Date of OrderAppealed From: May 21, 2004

Judicial District: 45

Date Documents Received: June 21, 2004

Date Notice of Appeal Filed: June 6, 2004

Order Type: PCRA Order

OTN:

Judge: Cottone, S. John
Senior Judge

Lower Court Docket No.: 86 CR 645

ORIGINAL RECORD CONTENTS



Appeal Docket Sheet

Docket Number: 955 MDA 2004

Page 3 of 3

June 22, 2004

Original Record Item	Filed Date	Content/Description
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Date of Remand of Record:

BRIEFS

DOCKET ENTRIES

Filed Date	Docket Entry/Document Name	Party Type	Filed By
June 22, 2004	Notice of Appeal IFP	Appellant	Coss Jr., Edward R.
EDWARD COSS NEEDS TO SERVE THE T/C JUDGE WITH A COPY OF HIS NOTICE OF APPEAL THEN SEND SUPERIOR COURT A COPY OF HIS AMENDED PROOF OF SERVICE			
June 22, 2004	Docketing Statement Exited (Criminal)		Middle District Filing Office



Superior Court of Pennsylvania

David A. Szewczak, Esq.
Prothonotary
Patricia A. Whittaker
Deputy Prothonotary

Middle District

June 22, 2004

100 Pine Street, Suite 400
Harrisburg, PA 17101
717-772-1294
www.superior.court.state.pa.us

Ms. Mary F. Rinaldi
Clerk of Judicial Records
Lackawanna County Courthouse
200 North Washington Avenue
Scranton, PA 18503

Re: 955 MDA 2004
Commonwealth of Pennsylvania
v.
Edward R. Coss, Jr., Appellant

Dear Ms. Rinaldi:

Enclosed please find a copy of the docket for the above appeal that was recently filed in the Superior Court. Kindly review the information on this docket and notify this office in writing if you believe any corrections are required.

Appellant's counsel is also being sent a Docketing Statement, pursuant to Pa.R.A.P. 3517, for completion and filing. Please note that Superior Court Dockets are available on the Internet at the Web site address printed at the top of this page. Thank you.

Very truly yours,

David A. Szewczak
Prothonotary

KRR

Commonwealth of Pennsylvania : IN THE SUPERIOR COURT OF
 : PENNSYLVANIA
 :
 : (C.P. Lackawanna Co. No. 86
 v. : CR 645)
 :
 : No. 955 MDA 2004
 Edward R. Coss, Jr. : Filed: August 26, 2004

ORDER

By order entered May 21, 2004, the trial court denied Appellant's petition for post-conviction relief. Appellant filed a *pro se* notice of appeal on June 14, 2004. On July 26, 2004, this Court directed Appellant to file a docketing statement on or before August 5, 2004. No docketing statement has been filed.

Upon review of the trial court record, it appears that appointed post-conviction counsel, Christopher J. Osborne, Esquire, never sought or was granted permission to withdraw as counsel for Appellant. Accordingly, the following is hereby **ORDERED**:

This Court's order of July 26, 2004 is hereby **RESCINDED**. As Attorney Osborne has not been granted leave to withdraw as counsel for Appellant, he is hereby **DIRECTED** to enter his appearance as counsel for Appellant in this Court. **See Pa.R.Crim.P. 120(C), 904(E)**. The Prothonotary of this Court is hereby **DIRECTED** to send a docketing statement to Attorney Osborne. The existing briefing schedule is hereby **VACATED**. Upon counsel's entry of appearance, a new briefing schedule will be set.

FILED FOR RECORD

Per Curiam

8/26/04 DE 304 12:28
 MIDDLE LACKAWANNA COUNTY
 DEPUTY PROTHONOTARY

TRUE COPY FROM RECORD
 Attest: AUG 26 2004

Patricia A. Whittaker
 Deputy Prothonotary
 Superior Court of PA - Middle District

Carbon Copy Recipient List

Addressed To: Mr. Edward R. Coss, Jr.
SCI Waymart-CB 5970
P.O. Box 256; Route 6
Waymart, PA 18472

Carbon Copied: Christopher J. Osborne, Esq.
Powell Law
Barrister's Row
142 Adams Avenue
Scranton, PA 18503

Andrew John Jarbola, III, Esq.
Lackawanna Co DA's Office
200 N Washington Ave
Scranton, PA 18503

Ms. Mary F. Rinaldi
Clerk of Judicial Records
Lackawanna County Courthouse
200 North Washington Avenue
Scranton, PA 18503

The Honorable S. John Cottone
Senior Judge
Court of Common Pleas of Lackawanna County
Lackawanna County Courthouse, 200 North Washington
Scranton, PA 18503

1013 -10/99

10/1/99



Superior Court of Pennsylvania

Middle District

David A. Szwczak, Esq.
Prothonotary
Patricia A. Whittaker
Deputy Prothonotary

100 Pine Street, Suite 400
Harrisburg, PA 17101
717-772-1294
www.superior.court.state.pa.us

August 26, 2004

RE: Com. v. Coss, Jr., E.R.
No. 955 MDA 2004

Trial Court Docket Number: 86 CR 645

Dear :

Enclosed please find a certified copy of an order dated August 26, 2004 entered in the above-captioned matter.

Very truly yours,

Patricia A. Whittaker
Deputy Prothonotary

KRR

cc: Christopher J. Osborne, Esq.
Andrew John Jarbola, III, Esq.
The Honorable S. John Cottone
Senior Judge
Ms. Mary F. Rinaldi
Clerk of Judicial Records

Ms. Mary F. Rinaldi
Clerk of Judicial Records
Lackawanna County Courthouse
200 North Washington Avenue
Scranton, PA 18503

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1013 - 10/99

10/1/99

IN THE SUPERIOR COURT OF PENNSYLVANIA
SITTING AT HARRISBURG

No. 955 MDA 2004

Commonwealth of Pennsylvania

v.
Edward R. Coss, Jr.

MARY F. RIMALDI
LACKAWANNA COUNTY
2004 DEC - 2 A 17
CLERK OF JUDICIAL RECORDS
Appeal from the Court
PCRA Court
of Common Pleas
for the County of Lackawanna
No. 86 CR 645

12/1/04 - The above appeal is hereby withdrawn and discontinued by order of:

Christopher J. Osborne
Attorney for Appellant

12/1/04 - DISCONTINUED

TRUE COPY FROM RECORD

IN TESTIMONY WHEREOF, I have hereunto set my hand and the seal of
said Court, at Harrisburg, this 1st day of December 2004.

Patricia A. Whittaker

Deputy Prothonotary

2004